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*Number 51 of 2012*

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**CIVIL DEFENCE ACT 2012**

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[No. 51.]                      *Civil Defence Act 2012.*                      [2012.]

ACTS REFERRED TO

|  |              |
|--|--------------|
| Adoptive Leave Acts 1995 and 2005                        |              |
| Air-Raid Precautions Act 1939                            | 1939, No. 21 |
| Air-Raid Precautions Acts 1939 and 1946                  |              |
| Carer's Leave Act 2001                                   | 2001, No. 19 |
| Civil Defence Act 2002                                   | 2002, No. 16 |
| Geneva Conventions (Amendment) Act 1998                  | 1998, No. 35 |
| Geneva Conventions Act 1962                              | 1962, No. 11 |
| Interpretation Act 2005                                  | 2005, No. 23 |
| Local Government Act 2001                                | 2001, No. 37 |
| Maternity Protection Acts 1994 and 2004                  |              |
| Minimum Notice and Terms of Employment Acts 1973 to 2005 |              |
| Organisation of Working Time Act 1997                    | 1997, No. 20 |
| Parental Leave Acts 1998 and 2006                        |              |
| Protection of Employees (Fixed-Term Work) Act 2003       | 2003, No. 29 |
| Protection of Employees (Part-Time Work) Act 2001        | 2001, No. 45 |
| Redundancy Payments Acts 1967 to 2011                    |              |
| Terms of Employment (Information) Acts 1994 to 2012      |              |
| Unfair Dismissals Acts 1977 to 2007                      |              |



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Number 51 of 2012

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**CIVIL DEFENCE ACT 2012**

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AN ACT TO PROVIDE FOR THE DISSOLUTION OF THE CIVIL DEFENCE BOARD; TO TRANSFER CERTAIN FUNCTIONS OF THE CIVIL DEFENCE BOARD TO THE MINISTER FOR DEFENCE; TO REPEAL THE CIVIL DEFENCE ACT 2002; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[26th December, 2012]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Act of 2001” means the Local Government Act 2001;

“Act of 2002” means the Civil Defence Act 2002;

“civil defence” has the meaning assigned to it by the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), the text of which is set out in the Fifth Schedule to the Geneva Conventions Act 1962 (inserted by section 7 of the Geneva Conventions (Amendment) Act 1998);

“Civil Defence Board” means the Civil Defence Board established by section 7 of the Act of 2002;

“civil defence member” means a person—

(a) who stands appointed in accordance with *section 15*, or

(b) who, immediately before the dissolution day, was registered in a register established under section 35 of the Act of 2002;

“civil defence plan” has the meaning assigned to it by *section 12*;

“director general of the dissolved body” means the person who, immediately before the dissolution day, stood appointed under section 14 of the Act of 2002 as the director general of the dissolved body;

“dissolution day” shall be construed in accordance with *section 2*;

“dissolved body” has the meaning assigned to it by *section 3*;

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“enactment” has the same meaning as it has in the Interpretation Act 2005;

“local authority” means—

(a) a county council within the meaning of the Act of 2001, or

(b) a city council within the meaning of that Act,

that, immediately before the dissolution day, performed functions relating to civil defence;

“Minister” means the Minister for Defence;

“register” has the meaning assigned to it by *section 16*.

Dissolution day. 2.—The Minister may, by order, appoint a day to be the dissolution day for the purposes of this Act.

Dissolution of Civil Defence Board. 3.—On the dissolution day the Civil Defence Board (in this Act referred to as the “dissolved body”) shall stand dissolved.

Transfer of functions to Minister. 4.—(1) All functions of the Minister that, immediately before the dissolution day, were vested in the dissolved body by virtue of section 9 of the Act of 2002 are transferred to the Minister.

(2) References in any enactment to the Civil Defence Board shall be construed as references to the Minister.

Transfer of land and other property. 5.—(1) On the dissolution day, all lands that, immediately before that day, were vested in the dissolved body and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in the Minister for all the estate or interest therein that, immediately before the dissolution day, were vested in the dissolved body, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

(2) On the dissolution day all property (other than land), including choses-in-action, that immediately before that day, was vested in the dissolved body shall stand vested in the Minister without any assignment.

(3) Every chose-in-action vested in the Minister by virtue of *subsection (2)* may, on and from the dissolution day, be sued on, recovered or enforced by the Minister in his or her name, and it shall not be necessary for the Minister, or the dissolved body, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

Transfer of rights and liabilities, and continuation of leases, licences and permissions granted by dissolved body. 6.—(1) All rights and liabilities of the dissolved body arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to the Minister.

(2) Every right and liability transferred by *subsection (1)* to the Minister may, on and after the dissolution day, be sued on, recovered or enforced by or against the Minister in his or her name, and it shall not be necessary for the Minister, or the dissolved body, to give

notice to the person whose right or liability is transferred by that subsection of such transfer.

(3) Every lease, licence, wayleave or permission granted by the dissolved body in relation to land or other property vested in the Minister by or under this Act, and in force immediately before the dissolution day, shall continue in force as if granted by the Minister.

7.—(1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of the functions assigned to the Minister by or under this Act shall on and after that day, lie against the Minister and not against the dissolved body.

Liability for loss occurring before dissolution day.

(2) Any legal proceedings pending immediately before the dissolution day to which the dissolved body is a party, that relate to a function of the Minister, shall be continued, with the substitution in the proceedings of the Minister, in so far as they so relate, for the dissolved body.

(3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the dissolved body, be enforceable against the Minister and not the dissolved body.

(4) Any claim made or proper to be made by the dissolved body in respect of any loss or injury arising from the act or default of any person before the dissolution day shall, where the claim relates to functions assigned to the Minister by or under this Act, be regarded as having been made by or proper to be made by the Minister and may be pursued and sued for by the Minister as if the loss or injury had been suffered by the Minister.

8.—(1) Anything commenced and not completed before the dissolution day by or under the authority of the dissolved body may, in so far as it relates to a function transferred to the Minister under *section 4*, be carried on or completed on or after the dissolution day by the Minister.

Provisions consequent upon transfer of functions, assets and liabilities to Minister.

(2) Every instrument made under an enactment and every document (including any certificate) granted or made, in the performance of a function transferred by *section 4*, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Minister.

(3) References to the Civil Defence Board in the memorandum or articles of association of any company and relating to a function transferred by *section 4* shall, on and after the dissolution day, be construed as references to the Minister.

(4) Any money, stocks, shares or securities transferred by *section 5* that, immediately before the dissolution day, were standing in the name of the dissolved body shall, on the request of the Minister, be transferred into his or her name.

(5) A certificate signed by the Taoiseach that any property, right or liability has or, as the case may be, has not vested in the Minister

under *section 5* or *6* shall be sufficient evidence, unless the contrary is shown, of the fact so certified for all purposes.

Final accounts and final annual report of dissolved body.

**9.—(1)** The director general of the dissolved body shall, in respect of the period specified under *subsection (3)*, prepare final accounts of the dissolved body.

(2) The director general of the dissolved body shall, not later than 6 months after the dissolution day, submit the final accounts of the dissolved body to the Comptroller and Auditor General for audit.

(3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the dissolved body.

(4) The director general of the dissolved body shall, not later than 9 months after the dissolution day, prepare and submit to the Minister the final annual report of the dissolved body, and the Minister shall, as soon as practicable thereafter, cause a copy of the final annual report to be laid before each House of the Oireachtas.

Transfer of members of staff of dissolved body.

**10.—(1)** (a) Every person who immediately before the dissolution day was a member of the staff of the dissolved body shall, on that day, become and be an officer of the Minister.

(b) The director general of the dissolved body shall, on the dissolution day, become and be an officer of the Minister.

(2) *Subsection (1)* shall not operate to prevent the appointment of a person, who by virtue of that subsection is an officer of the Minister, to be an officer of another Minister of the Government.

(3) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, while in the service of the Minister, be subject to less beneficial conditions of service (including conditions relating to tenure of office) or remuneration than the conditions of service (including conditions relating to tenure of office) or remuneration to which he or she was subject immediately before the dissolution day.

(4) In relation to persons who have become and are officers of the Minister by virtue of *subsection (1)*, previous service with the dissolved body shall be reckonable for the purposes of, but subject to any exceptions or exclusions in, the following:

(a) the Redundancy Payments Acts 1967 to 2011;

(b) the Minimum Notice and Terms of Employment Acts 1973 to 2005;

(c) the Unfair Dismissals Acts 1977 to 2007;

(d) the Maternity Protection Acts 1994 and 2004;

(e) the Terms of Employment (Information) Acts 1994 to 2012;

(f) the Adoptive Leave Acts 1995 and 2005;

(g) the Organisation of Working Time Act 1997;

- (h) the Parental Leave Acts 1998 and 2006;
- (i) the Carer's Leave Act 2001;
- (j) the Protection of Employees (Part-Time Work) Act 2001;
- (k) the Protection of Employees (Fixed-Term Work) Act 2003.

**11.**—Every contract, agreement or arrangement made between the dissolved body and any other person, which is in force immediately before the dissolution day, shall continue in force after that day and shall be construed and have effect as if the name of the Minister were substituted therein for that of the dissolved body and shall be enforceable by or against the Minister. Preservation of contracts made by dissolved body.

**12.**—(1) Each local authority shall, not later than 12 months after the dissolution day, prepare and submit to the Minister a plan (in this section referred to as a “civil defence plan”) in accordance with this section. Civil defence plans.

(2) A local authority shall, in the preparation of a civil defence plan, have regard to the need to ensure the most beneficial, effective and efficient use of resources in the implementation of the key objectives and strategies specified in the plan.

(3) A civil defence plan shall—

- (a) specify the key objectives and related strategies (including strategies relating to the use of resources) of a local authority with regard to—
  - (i) its functions relating to civil defence,
  - (ii) the recruitment of persons for the performance of civil defence tasks, and
  - (iii) the education and training of civil defence members,
- (b) be prepared in such form and manner as the Minister may determine, and
- (c) make provision in relation to any other matters that the Minister may from time to time specify.

(4) Each local authority shall review and, where it considers it appropriate, revise its civil defence plan—

- (a) not later than 3 years, or such other period as may be determined by the Minister, after the preparation and submission to the Minister of that plan, and
- (b) not later than 3 years, or such other period as may be determined by the Minister, after the completion of its most recent review of that plan under this subsection.

(5) Where a local authority revises its civil defence plan, it shall, as soon as may be after the plan's revision, submit a copy of the plan as so revised to the Minister.

Annual report of local authority.

**13.**—Section 221 of the Act of 2001 is amended by the insertion, in subsection (2), of the following paragraph:

“(dd) particulars of—

- (i) the expenditure incurred by the county council or city council in performing its functions relating to civil defence, and
- (ii) gifts received by the county council or city council during the year to which the report relates in connection with the performance of those functions;”.

Grants paid by Minister to local authorities for civil defence purposes.

**14.**—(1) (a) Each year the Minister may, out of moneys provided by the Oireachtas, pay to each local authority a grant of such amount as the Minister may determine for the purpose of defraying expenditure by the local authority in the performance of its functions relating to civil defence.

(b) This subsection is in addition to, and not in substitution for, section 35 of the Air-Raid Precautions Act 1939.

(2) A grant paid to a local authority under this section shall not be used by the local authority for any purpose other than that specified in *subsection (1)*.

Recruitment of civil defence members.

**15.**—(1) A local authority may, in accordance with such directions as may be given by the Minister to the local authority, appoint such and so many persons as it considers appropriate to perform such functions as are specified in those directions within the administrative area of that local authority in relation to civil defence as it considers appropriate.

(2) Without prejudice to the generality of *subsection (1)*, the Minister may give directions under this section to local authorities in relation to—

- (a) the classes of persons who are eligible to be appointed to be civil defence members, and
- (b) the form and manner in which an application for registration as a civil defence member shall be made.

(3) An appointment under this section shall cease if—

- (a) the local authority concerned revokes the appointment, or
- (b) in the case of an appointment that is for a fixed period, on the expiry of that period.

(4) In this section “administrative area” has the same meaning as it has in the Act of 2001.

Civil defence register.

**16.**—(1) Each register (in this section referred to as the “register”) established under section 35 of the Act of 2002 shall—

- (a) continue in being,



(b) continue to be known, in relation to the local authority that established it, as the Register of Civil Defence Members, and

(c) continue to be maintained by that local authority.

(2) The register shall be kept in such form, and include such information, as the Minister may determine.

(3) Without prejudice to the generality of *subsection (2)*, the register shall include the following information:

(a) the name of each person appointed to be a civil defence member by the local authority concerned;

(b) the address at which the person ordinarily resides;

(c) the telephone number of the person;

(d) the person's date of birth;

(e) the qualifications and experience of the person relating to civil defence;

(f) the date on which the person was appointed to be a civil defence member by the local authority concerned;

(g) a number by which it will be possible to identify the person.

(4) Subject to *subsection (5)*, the register shall be kept at the offices of the local authority that established it and shall be made available for inspection by the following persons only:

(a) the county manager or city manager of the local authority concerned;

(b) any member of staff of that local authority designated in writing for the purposes of this subsection by that county manager or city manager, as the case may be;

(c) the Minister or such officers of the Minister as the Minister may designate in writing.

(5) A civil defence member shall be entitled to inspect any entry in the register that relates to him or her.

(6) Where it comes to the notice of a local authority that information entered in the register maintained by it is incorrect, that local authority shall, for the purpose of ensuring that information entered in the register is correct, make such alterations to the register as it considers appropriate.

(7) If a particular entered in the register relating to a civil defence member is not correct or ceases to be correct, the civil defence member concerned shall, as soon as may be, so inform the local authority that maintains the register.

**17.**—The Act of 2002 is repealed.

Repeal.

[No. 51.]                      *Civil Defence Act 2012.*                      [2012.]

Short title,  
collective citation  
and  
commencement.

**18.**—(1) This Act may be cited as the Civil Defence Act 2012.

(2) This Act and the Air-Raid Precautions Acts 1939 and 1946 may be cited together as the Civil Defence Acts 1939 to 2012.

(3) This Act (other than *section 2* and this section) shall come into operation on the dissolution day.